

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 6121 of 2007(D)

PETITIONER:

M/S.GEECO PLASTICS, VENGOOR,
VENGOOR (PO), KURUPPAMPADY, PERUMBAVOOR,
REP. BY ITS MANAGING PARTNER, JOY VARGHESE,
S/O.GEEVARGHESE.

BY ADV. SRI.C.K.ABDUL RAHIM.

RESPONDENTS:

1. KERALA FINANCIAL CORPORATION,
REP. BY ITS MANAGING DIRECTOR, HEAD OFFICE,
VELLAYAMBALAM, THIRUVANANTHAPURAM.
2. THE BRANCH MANAGER,
KERALA FINANCIAL CORPORATION,
PERUMBAVOOR BRANCH, S.N.D.P. BUILDINGS,
PERUMBAVOOR.
3. C.V.PAUL, CHIRACKAL HOUSE,
VENGOOR P.O., KURUPPAMPADY, ERNAKULAM DISTRICT.

BY ADV. SRI.P.PARAMESWARAN NAIR, SC, KFC, FOR R1 & R2,
ADV. SRI. G. RAJAGOPAL FOR R3.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/03/2007,ALONG WITH W.P.(C). NO. 17122/2006,THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE REVENUE RECOVERY NOTICES DTD. 29/10/2001.

EXT.P.2: COPY OF THE REVENUE RETCOVERY NOTICES DTD. 29/10/2001.

EXT.P.3: COPY OF THE REPRESENTATION DTD. 10/11/2001.

EXT.P.4: COPY OF THE SALE NOTICE PUBLISHED DTD. 06/08/2004.

EXT.P.5: COPY OF THE NOTICE ISSUED BY THE DY. TAHSILDAR (RR) TO THE AUCTION BIDDER, DTD. 06/10/2004.

EXT.P.6: COPY OF THE NOTICE PUBLISHED IN NEWSPAPERS PROCLAIMING THE SALE, DTD. 30/01/2006.

EXT.P.7: COPY OF THE REPRESENTATION REGARDING POSTPONEMENT OF SALE, DTD. 06/02/2006.

EXT.P.8: COPY OF THE LETTER ISSUED BY THE R.2, DTD. 15/03/2006.

EXT.P.9: COPY OF THE PETITION SUBMITTED TO THE R.2., DTD. 29/03/2006.

EXT.P.10: COPY OF THE REPLY ISSUED BY THE R.2, DTD. 22/04/2006.

EXT.P.11: COPY OF THE INTERIM ORDER OF THIS HON'BLE COURT DTD. 25/07/2006.

EXT.P.12: COPY OF THE REPRESENTATION SUBMITTED TO THE R.1, DTD. 03/11/02.

EXT.P.13: COPY OF THE LETTER ISSUED BY THE R.2. DD. 13/11/2006.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NOS. 17122/2006&
6121/2007

JUDGMENT

W.P.(C) No.6121/2007:

The petitioner has approached this Court, feeling aggrieved by the sale of the collateral security furnished by it, to secure a loan from the the 1st respondent K.F.C. The sale was conducted by the said Corporation for an amount of Rs.17.80 lakhs to the 3rd respondent. According to the petitioner, the property will fetch a minimum price of Rs.50 lakhs. It is also submitted that the petitioner is ready and willing to pay an amount of Rs.18.25 lakhs for the said property and redeem it. But, its offer to pay the amount to avert confirmation of the sale, which is already made in favour of the 3rd respondent, was not accepted by the Corporation. The request made by the petitioner in this regard has been rejected by the Corporation by Ext. P13 communication. Hence this Writ Petition, challenging Ext.P13.

2. The learned counsel for the 3rd respondent submitted that the 3rd respondent has already deposited the entire amount. The sale was confirmed in his favour on 21.6.2006 and therefore, the writ petition is

liable to be dismissed.

3. The K.F.C has issued written instruction concerning the matter to the learned standing counsel. In the said written instruction it is submitted as follows:

“If the petitioner is willing to remit the amount of Rs.18.25 lakhs immediately, the same is acceptable for the Corporation, provided the damages and other such incidentals if claimed by the auction purchaser also to be borne by the petitioner.”

The above submission is recorded. The petitioner may pay the amount of Rs.18.25 lakhs within one week from today. In that event, the K.F.C shall act according to the aforementioned undertaking.

4. The 3rd respondent is seriously aggrieved by the above stand of the Corporation. If that be so, he may work out his remedy against the Corporation by taking recourse to appropriate proceedings.

The Writ Petition is disposed of as above.

W.P.(C) No.17122/2006:

5. In view of the judgment in W.P.(C) No.6121/2007, this Writ Petition is closed. The pleadings of the parties, especially that of the

additional 5th respondent, the auction purchaser are contained in this writ petition. They have been treated as the pleadings in W.P.(C) No.6121/2007.

2nd March, 2007.

K.BALAKRISHNAN NAIR, JUDGE.

Nm/